

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CWP No. 4131 of 2013 (O&M)

Date of decision: 31.07.2015

Gian Chand

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr. Sunil Kumar Bhardwaj, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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**Jitendra Chauhan, J. (Oral)**

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of inaction of respondents in not granting the opportunity to the petitioner for exercising the option for standard scale in compliance of the judgment passed by this Court, vide order dated 13.09.2010 (Annexure P-4).

The learned counsel for the petitioner contends that the petitioner retired from the post Additional SDE on 30.04.2007. The precise grievance of the petitioner is that he was not allowed to exercise the option to opt for the existing pay scale of Rs. 1640-2900/- w.e.f. 01.04.1986 and further the existing scale of Rs.6500-9900 w.e.f. 01.04.1996 instead of 01.01.1996. The other similarly situated employee who was appointed as a JE and reitred as SDE had been

allowed to exercise the similar option vide order dated 13.09.2010 (Annexure P-4), therefore, the petitioner cannot be deprived of his right to exercise his option allowed to him, vide order dated 13.09.2010 (Annexure P-4).

On the other hand, the learned State counsel submits that petitioner did not opt for pay fixation w.e.f. 01.04.1986 instead of 01.01.1986 within three months i.e. from the date of fixation of pay in the pay scale of Rs.1640-2900, therefore, at this belated stage, he cannot be allowed to change his option. The similarly situated employee, namely, V.N. Gaur, SDE (retd.) had opted for the pay scale within three months time. He further contends that the petitioner exercised the option on 28.10.1998, wherein he had opted for revision of pay w.e.f. 01.01.1996 and his pay was revised as per his option w.e.f. 01.01.1996. The learned counsel refers to Rule 6 of the Haryana Civil Services Revised Pay Rules, 1998 (Annexure R-6) as per which the option had to be exercised within three months of the date of the publication of the above rules.

Heard.

The petitioner was granted higher pay scale of Rs.1640-2900 w.e.f. 01.01.1986 and his pay was fixed as Rs.1880/- on 01.01.1986 in the above said scale. The petitioner did not opt for pay fixation w.e.f. 01.04.1986 instead of 01.01.1986 i.e., the date when his pay was fixed in higher pay scale.

Rule 6 of Haryana Civil Services Revised Pay Rules, 1998 reads as under:-

**6. Exercise of option.—**

*(1) The option under the proviso to the rule 5 shall be exercised in writing in the form appended to the Second Schedule so as to reach the authority mentioned in sub-rule (2) within three months of the date of publication of these rules or where an existing scale has been revised by any amendment made in these rules, within three months of the date of amendment :*

***Provided that—***

*(i) in case of Government employee who is, on the date of such publication or, as the case may be, date of such amendment, out of India on leave or deputation or foreign service or active service, the said option shall be exercised in writing so as to reach the said authority within three months of the date of his taking charge of his post in India, and*

*(ii) where a Government employee is under suspension on the 1st day of January, 1986 the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub-rule.*

*(2) The option shall be intimated by the Government servant to the Head of his Office.*

*(3) If the intimation regarding the option is not received within the time mentioned in the sub-rule (1), the Government employee shall be deemed to have elected to be governed by the revised scale of pay on and from the first day of January, 1986.*

*(4) The option once exercised shall be final.*

It is evident from the record the petitioner exercised his option dated 28.10.1998 which has been accepted by the respondents. The option had to be exercised within three months from the date of publication of the above Rules. The case of the petitioner is on different footing than that of the other retired employee, namely, Sh. V.N. Gaur.

In view of above facts and circumstances, finding no merit in the instant petition, the same is hereby dismissed.

31.07.2015

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**(JITENDRA CHAUHAN)**  
**JUDGE**